

REMARKS

The Applicants request reconsideration of the rejection.

Claims 2-3 and 5-21 remain pending.

The Applicants again request the Examiner to acknowledge the claim for foreign priority and receipt of the certified copy on November 20, 2003. Priority is claimed to Japanese Patent Application No. 2002-337352, filed November 21, 2002, as indicated in the Declaration.

Claims 1-3 and 5-21 stand rejected under 35 USC 112, second paragraph as being indefinite for the reasons set forth on pages 2-3 of the office action. Although claim 1 is no longer pending, the Applicants have added its subject matter to claims 5-6 and 9-12 in rewriting these claims in independent form. The Applicants request reconsideration of the finding that the paragraph beginning "a liquid surface estimation mechanism..." is indefinite, noting that although the Examiner made a careful and kind suggestion to improve the expression, the approximate formula curve is not derived from the reagent liquid surface height prevalent upon bubbling, but on the first several tens of tests in which any bubbling is insignificant. Thus, it seems better to retain the currently-claimed expression, "a liquid surface estimation mechanism for estimating the current liquid surface height derived from an approximate formula curve based on liquid surface height changes that occur during a period of the first several tens of tests for analysis."

Claims 1-3, 7-8, and 13-21 stand rejected under 35 USC 103(a) as being unpatentable over Koeda, 5,319,954 (Koeda). Claims 5-6 and 9-12 are deemed to contain allowable subject matter. Therefore, without admitting to the propriety of the rejection, the Applicants have chosen to rewrite claims 5-6 and 9-12 in independent form so as to render them allowable while avoiding the additional costs associated

with further prosecution at this time. In addition, the Applicants note that claims 15-16 should be allowable as being dependent on claims 5 and 6, respectively, and claims 18-21 should be allowable as being dependent on claims 9-12, respectively. Further, claims 2-3 and 7 (and claims 8, 13, 14, and 17 through claim 2 or claim 3) are now dependent on claim 5, such that these claims should now be allowable.

In closing, the Applicants' representative thanks the Examiner for the courtesies extended during the telephone interview conducted on April 15, 2008, during which it is believed that agreement was reached that the expression in claim 1, discussed above, would be found definite upon the above remarks being submitted. If any further amendments are considered necessary, please telephone the Applicants' representative at the number below.

In view of the foregoing amendments and remarks, the Applicants request reconsideration of the rejection and allowance of the claims.

To the extent necessary, Applicants petition for an extension of time under 37 CFR 1.136. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, or credit any overpayment of fees, to the deposit account of Mattingly, Stanger & Malur, P.C., Deposit Account No. 50-1417 (referencing attorney docket no. KAS-198).

Respectfully submitted,

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